List of declarations made with respect to treaty No. 164

Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine

Status as of: 28/5/2015



Croatia :

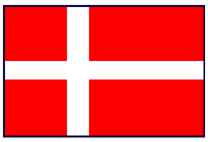
Reservation contained in the instrument of ratification deposited on 28 November 2003 - Or. Engl.

In accordance with Article 36 of the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, the Republic of Croatia puts forward a reservation with regard to the conditions regulated in Article 20, paragraph 2, sub-paragraph ii of the Convention.

The Republic of Croatia excludes the limitation within Article 20, paragraph 2, sub-paragraph ii of the Convention, which exceptionally allows the removal of regenerative tissue from a person who is not able to consent solely when no compatible donor with the ability to consent is available, and the recipient is a brother or a sister of the donor. The limitation does not allow the removal of regenerative tissue (bone marrow) from a minor for the benefit of his/her parent. Such a limitation is not compatible with the Law of the Republic of Croatia in force – the Removal and Transplantation of Human Body Parts Act (Official Gazette No. 53/91), which allows the transplantation of regenerative tissue from a minor for the benefit of his/her parent. The Republic of Croatia hereby protects the vital interests of an underage donor, thereby saving the life of the donor's parent who is of the utmost importance (for the minor).

The Republic of Croatia will apply Article 20, paragraph 2, sub-paragraph ii of the Convention, to the effect that the receiver is a parent, a brother or a sister of the donor.
Period covered: 1/3/2004 -

The preceding statement concerns Article(s) : 20



Denmark :

Reservation contained in the instrument of ratification deposited on 10 August 1999 - Or. Eng.

Article 10, paragraph 2, concerning the right to information of registered persons

According to this provision, all persons are entitled to know any information collected about his or her health. However, the wishes of individuals not to be so informed shall be observed.

Danish legislation on registers provides that health information may be exempted from the registered person's right to information. Likewise, Section 10, paragraph 5, of the Public Administration Act (Act No. 572-19/12-1985) provides that material provided as a basis for the preparation of public statistics or scientific studies is not subject to access.
Period covered: 1/12/1999 -

The preceding statement concerns Article(s) : 10

Declaration contained in the instrument of ratification deposited on 10 August 1999 - Or. Eng.

Article 20, paragraph 2, sub-paragraph ii, concerning the removal of regenerative tissue

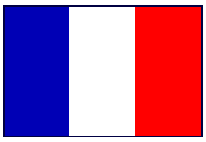
Under this provision, the removal of regenerative tissue, for example bone marrow, from a minor may be authorised in exceptional circumstances if the recipient is a brother or sister of the donor. However, regenerative tissue may not be transplanted from an under-age child to one of its parents. This limitation is not compatible with general practice in Denmark, under Section 13 of the act on medical examinations prior to the issue of a death certificate, post-mortem examinations, transplantation, etc (Act No. 402-13/6-1990) and in certain other countries, given that there are cases - albeit very rare - in which donation from a child to a parent cannot be replaced by any other realistic or equal treatment. In such cases, the donation has the potential to be life-saving for the recipient. The tissue in question will be regenerated more quickly in the child, and the actual surgical intervention is a minor one in which the only risk is the risk related to the anaesthesia. If this treatment option is excluded, the result may be that the child will lose his or her mother or father.
Period covered: 1/12/1999 -

The preceding statement concerns Article(s) : 20

Declaration contained in the instrument of ratification deposited on 10 August 1999 - Or. Engl.

In accordance with Article 35 of the Convention, Denmark declares that until further notice the Convention shall not apply to the Faroe Islands and Greenland.
Period covered: 1/12/1999 -

The preceding statement concerns Article(s) : 35



France :

Reservation contained in the instrument of ratification deposited on 13 December 2011 - Or. Fr.

France will apply to minors the exception provided for in Article 20.2 exceptionally authorising the removal of regenerative tissues from a person not having the capacity to consent, not only where the recipient is a brother or sister of the donor, but also where the recipient is a first cousin, uncle, aunt, nephew or niece of the donor.

French legislation (Act No. 2004-800 of 6 August 2004 supplemented by Act No. 2011-814 of 7 July 2011) is today less restrictive than the Convention. It extends the possibility of donation of hematopoietic stem cells removed from bone marrow at other degrees of kinship and authorises in particular removal from a minor for the benefit not only of the brothers and sisters but also of the cousins, uncles or aunts, nephews or nieces. This extension, which does not fundamentally impugn the principle established in Article 20 of the Convention, appeared justified to the French legislator from the medical standpoint (negligible risk to the donor but significant benefit for the recipient) especially as additional guarantees of an ethical nature and protecting the donor are laid down in the operative provisions.
Period covered: 1/4/2012 -

The preceding statement concerns Article(s) : 20

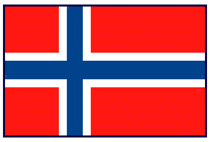


Moldova :

Declaration contained in the instrument of ratification deposited on 26 November 2002 - Or. Engl./Mol.

According to Article 35 of the Convention, the Republic of Moldova declares that it will apply the provisions of the Convention only on the territory controlled by the Government of the Republic of Moldova until the full establishment of the territorial integrity of the Republic ol Moldova.
Period covered: 1/3/2003 -

The preceding statement concerns Article(s) : 35



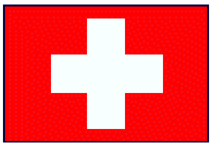
Norway :

Reservation contained in the instrument of ratification deposited on 13 October 2006 - Or. Engl.

In accordance with Article 36 of the Convention, the Government of the Kingdom of Norway reserves the right not to apply Article 20, paragraph 2, sub-paragraph ii, of the Convention, to the effect that Norway also authorises the removal of regenerative tissue from persons who do not have the capacity to consent in cases where the recipient is a child or parent of the donor, or in special cases, a close relative of the donor, cf. section 1, third paragraph, item 2, of Act of 9 February 1973 No. 6 relating to transplantation, hospital autopsies and the donation of bodies, etc. (Transplantation Act).

According to section 1, third paragraph, item 2, of the Transplantation Act, the removal of regenerative tissue from persons who do not have the capacity to consent may be authorised in cases where the recipient is a child or parent of the donor, or in special cases, a close relative of the donor, cf. section 1, third paragraph, item 2, of the said Act. Consequently, the provisions of Norwegian law go beyond those of Article 20, paragraph 2, sub-paragraph ii of the Convention, which only authorise the removal of regenerative tissue in cases where the recipient is a brother or a sister of the donor.
Period covered: 1/2/2007 -

The preceding statement concerns Article(s) : 20, 36



Switzerland :

Reservation contained in the instrument of ratification deposited on 24 July 2008 - Or. Fr.

Switzerland declares that, until the entry into force of the Federal Law on the revision of the Civil Code of Switzerland (Protection of the adult, rights of the individuals and rights of filiation), Article 6, sub-paragraph 3, of the Convention apply subject to the cantonal legislation which grants the competence of decision to the physician for persons unable to discern who do not have a legal representative.
Period covered: 1/11/2008 -

The preceding statement concerns Article(s) : 6

Reservation contained in the instrument of ratification deposited on 24 July 2008 - Or. Fr.

Switzerland declares that Articles 19 and 20 of the Convention applies subject to Articles 12 and 13 of the law of 8 October 2004 on transplantation (status as of 1 July 2007), which do not provide for the principle of subsidiarity of a removal on a living person.
Period covered: 1/11/2008 -

The preceding statement concerns Article(s) : 19, 20

Reservation contained in the instrument of ratification deposited on 24 July 2008 - Or. Fr.

Switzerland declares that Article 20, sub-paragraph 2, of the Convention is applicable also subject to Article 13, sub-paragraph 2, lit. d, of the law of 8 October 2004 on transplantation (status as of 1 July 2007), which authorises also, as an exception to the rule, the removal of tissues or cells which regenerate when the recipient is the father or the mother or a child of the donor.
Period covered: 1/11/2008 -

The preceding statement concerns Article(s) : 20



Turkey :

Declaration transmitted by a letter from the Deputy Permanent Representative of Turkey, dated 17 November 1997, registered at the Secretariat General on 18 November 1997 - Or. Engl.

The Government of the Republic of Turkey has, by Decree No. 97/9766 dated 7 August 1997, confirmed the signature of the Convention, done *ad referendum* on 4 April 1997 by Mr Riza TÜRMEN, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Turkey to the Council of Europe.

The preceding statement concerns Article(s) : -

Declaration transmitted by a letter from the Deputy Permanent Representative of Turkey, dated 17 November 1997, registered at the Secretariat General on 18 November 1997 - Or. Engl.

The Republic of Turkey, in accordance with Article 36 of the Convention, reserves the right not to apply the provision of Article 20, paragraph 2, of the Convention, which authorises, under certain conditions, the removal of regenerative tissue from a person who does not have the capacity to consent, for the reason that this provision does not conform with the prohibition provided in Article 5 of the Law No. 2238 on Organ and tissue Removal, Preservation and Transplantation.

The preceding statement concerns Article(s) : 20